

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
v.)	
)	04-10359-RCL
RUBEN MONTANO-LOPEZ)	
Defendant,)	
)	
<i>and</i>)	
)	
LATIN AMERICAN HEALTH)	
INSTITUTE)	
Garnishee.)	

APPLICATION FOR WRIT OF CONTINUING GARNISHMENT

Pursuant to 28 U.S.C. § 3205(b)(1)¹, the Federal Debt Collection Procedures Act, the Plaintiff, United States of America, petitions the Clerk of the United States District Court to issue a Writ of Continuing Garnishment upon wages, which Latin American Health Institute, located in Boston, MA is believed to disburse to the Defendant, Ruben Montano-Lopez (hereinafter “Montano-Lopez”) to satisfy a \$13,290.90 judgment entered against Montano-Lopez.

In support, the United States says:

¹ Under 28 U.S.C. § 3205(b)(1), the United States files an application for writ of garnishment with the specified information with the Court. If the Court determines that the requirements are met, the Court shall issue the writ of garnishment. 28 U.S.C. § 3205(c)(1). Once the Court issues the writ of garnishment, the United States serves the writ on the defendant and the garnishee and certifies to the Court that it has done so. 28 U.S.C. § 3205(c)(3). Included with the service of the writ on the garnishee is an instruction explaining the requirement that the garnishee submit a written answer to the writ. 28 U.S.C. § 3205(c)(3)(A). Included with the service of the writ on the defendant are instructions for objecting to the answer of the garnishee and for obtaining a hearing on the objections. 28 U.S.C. § 3205(c)(3)(B). The garnishee shall answer the writ within 10 days of service. 28 U.S.C. § 3205(c)(2)(E). The defendant and the United States have 20 days after receipt of the answer to file an objection and request a hearing. 28 U.S.C. § 3205(c)(5). After the garnishee files an answer and if no hearing is requested within the required time period, the court shall promptly enter an order directing the garnishee as to the disposition of the judgment debtor’s nonexempt interest in such property. If a hearing is timely requested, the order shall be entered within 5 days after the hearing, or as soon thereafter as practicable. 28 U.S.C. § 3205(c)(7).

1. On December 21, 2004, a \$13,290.90 judgment was entered against Montano-Lopez, social security number 000-00-7690, last known address in Jamaica Plain MA in the United States District Court for the District of Massachusetts.

2. Montano-Lopez is indebted to the United States for the judgment amount of \$13,290.90; plus accrued interest at the rate of 2.66 percent per annum. The total balance as of October 17, 2006 is \$11,756.48.

3. The United States made demand for payment of the aforementioned debt upon Montano-Lopez not less than 30 days prior to the date of this Application, and Montano-Lopez has failed to satisfy the debt.

4. The United States believes the Garnishee, Latin American Health Institute, disburses wages to Montano-Lopez, and that Montano-Lopez has a substantial nonexempt interest in such wages.

WHEREFORE, the United States of America petitions the Clerk of the United States District Court to issue a Writ of Garnishment upon wages, which Latin American Health Institute is believed to disburse to Montano-Lopez, to satisfy the \$13,290.90 judgment entered against Montano-Lopez on December 21, 2004.

Respectfully submitted,
UNITED STATES OF AMERICA
By its attorneys
MICHAEL J. SULLIVAN
United States Attorney

By:

/s/ Christopher R. Donato
CHRISTOPHER R. DONATO
Assistant U.S. Attorney
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3303

Dated: October 17, 2006

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
v.)	
)	04-10359-RCL
RUBEN MONTANO-LOPEZ)	
Defendant,)	
)	
<i>and</i>)	
)	
LATIN AMERICAN HEALTH)	
INSTITUTE)	
Garnishee.)	

WRIT OF CONTINUING GARNISHMENT

GREETINGS TO:

Latin American Health Institute
Nereda Zayas
95 Berkeley Street, Suite 600
Boston, MA 02116

The United States of America believes that you disburse wages to the defendant, Ruben Montano-Lopez, (hereinafter "Montano-Lopez") and that he/she has a substantial nonexempt interest in such wages.

On December 21, 2004, judgment was entered against Montano-Lopez in the United States District Court for the District of Massachusetts.

Montano-Lopez, whose last known address in Jamaica Plain MA, is indebted to the United States for the judgment amount of \$13,290.90, plus accrued interest at the rate of 2.66 percent per annum. The total balance as of October 17, 2006 is \$11,756.48.

Pursuant to 28 U.S.C. § 3205(c), you must state under oath in your written answer to this Writ whether you have in your custody, control, or possession any property owned by

Montano-Lopez, including disposable income, and, if so, you must describe such property and the value of such interest. You must then describe any previous garnishments to which such property is subject and the extent to which any remaining property is not exempt. You must also state the amount of debt, if any, you anticipate owing to Montano-Lopez in the future and the type of payment schedule.

You must withhold and retain any property that Montano-Lopez has a substantial nonexempt interest and for which you are or may become indebted to Montano-Lopez pending further order of the Court. Property that is exempt from this Writ is listed on the attached Claim for Exemption form.

You must file, within ten (10) days of service of this Writ, your original written answer to this Writ with the Clerk of the United States District Court, 1 Courthouse Way, Suite 2300, Boston, MA 02210. You must also serve a copy of your answer to this Writ upon both Ruben Montano-Lopez, in MA 02130-3314 and Christopher R. Donato, Assistant U.S. Attorney, Financial Litigation Unit, 1 Courthouse Way, Suite 9200, Boston, MA 02210.

If you fail to answer this Writ or withhold property in accordance with this Writ, the United States of America may petition the Court for an order requiring you to appear before the Court to answer this Writ and to so withhold property before the appearance date. If you fail to appear, or do appear and fail to show good cause why you failed to comply with this Writ, the Court shall enter a judgment against you for the value of Montano-Lopez's nonexempt property. It is illegal to pay or deliver to Montano-Lopez any item attached by this Writ.

Pursuant to 15 U.S.C. § 1674, you are prohibited from discharging Montano-Lopez from employment because his/her earnings have been subjected to garnishment for any one indebtedness.

Sarah A. Thornton
Clerk, United States District Court

By:

Deputy Clerk

Dated:

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
v.)	
)	04-10359-RCL
RUBEN MONTANO-LOPEZ)	
Defendant,)	
)	
<i>and</i>)	
)	
LATIN AMERICAN HEALTH)	
INSTITUTE)	
Garnishee.)	

CLERK'S NOTICE OF POST-JUDGMENT GARNISHMENT

TO: Ruben Montano-Lopez

You are hereby notified that the United States of America is taking a percentage of your wages, which is in the custody, possession, or control of Latin American Health Institute, to apply to a \$13,290.90 judgment entered against you on December 21, 2004 in the United States District Court for the District of Massachusetts.

As of October 17, 2006, computation of the debt is the judgment amount of \$13,290.90, plus accrued interest at the rate of 2.66 percent per annum. The total balance is \$11,756.48.

Also, you are hereby notified that there are exemptions under the law that may protect some of your property from seizure by the Government if you can show the exemptions apply. The exemptions that apply are those of the state where you have resided in the last 180 days. Attached is a summary of the major exemptions that apply in Massachusetts.

You have a right to ask the court to return your property to you if you think the property the Government is taking qualifies under one of the attached exemptions, or if you think you do

not owe the money to the Government that it claims you do.

If you want a hearing, you must notify the court within 20 days after receipt of this notice. You must make your request in writing, and either mail it or deliver it in person to the Clerk of the United States District Court, 1 Courthouse Way, Suite 2300, Boston, MA 02210. If you wish, you may use this notice to request a hearing by checking the space below and mailing this notice to the Clerk of the United States District Court at the aforementioned address. You must also send a copy of your request to Christopher R. Donato, Assistant U.S. Attorney, U.S. Attorney's Office, Financial Litigation Unit, 1 Courthouse Way, Suite 9200, Boston, MA 02210, to notify the Government that you want a hearing. The hearing will take place within 5 business days after the Clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

At the hearing you may explain to the judge why you believe the property is exempt, or why you think you do not owe the money to the Government. If you do not request a hearing within 20 days of receiving this notice, your property may be sold at public auction and the payment used toward the money you owe the Government.

If you live outside the federal judicial district in which the Court is located, you may request, not later than 20 days after you receive this notice, that this proceeding be transferred by the Court to the federal judicial district in which you reside. You must make your request in writing, and either mail it or deliver it in person to the Clerk of the United States District Court, 1 Courthouse Way, Suite 2300, Boston, MA 02210. You must also send a copy of your request to Christopher R. Donato, Assistant U.S. Attorney, Financial Litigation Unit, 1 Courthouse Way,

Suite 9200, Boston, MA 02210, to notify the Government of your desire to transfer the proceeding.

Be sure to keep a copy of this notice for your own records. If you have any questions about your rights or about this procedure, you should contact a lawyer, an office of public legal assistance.

Sarah A. Thornton
Clerk, United States District Court

By:

Deputy Clerk

Dated:

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	04-10359-RCL
RUBEN MONTANO-LOPEZ)	
)	
Defendant,)	
)	
<i>and</i>)	
)	
LATIN AMERICAN HEALTH)	
INSTITUTE)	
)	
Garnishee.)	

NOTICE OF GARNISHMENT AND INSTRUCTIONS

TO: Ruben Montano-Lopez

You are hereby notified that the United States of America is taking a percentage of your wages, which is in the custody, possession, or control of Latin American Health Institute, to apply to a \$13,290.90 judgment entered against you on December 21, 2004 in the United States District Court for the District of Massachusetts.

Also, unless you file a written objection to the Garnishee's Answer and request a hearing within 20 days after you receive the Answer of the Garnishee, the Court will enter an Order attaching your wages to apply against the judgment owed the United States.

If you object to the Garnishee's Answer, your objection must state the reasons why your wages are not subject to attachment by the United States. You must file your objection with the Clerk of the United States District Court, 1 Courthouse Way, Suite 2300, Boston, MA 02210. The Court will schedule a hearing within 10 days after the date the objection is received by the

Court, or as soon thereafter as practicable. The Court will give notice of the hearing date to all the parties.

A copy of your objection or other pleadings must also be served on: (1) Christopher R. Donato, Assistant U.S. Attorney, U.S. Attorney's Office, Financial Litigation Unit, 1 Courthouse Way, Suite 9200, Boston, MA 02210; and (2) Latin American Health Institute, Nereda Zayas 95 Berkeley Street, Suite 600, Boston, MA 02116.

YOU MAY WISH TO CONSULT A LAWYER FOR ADVICE AS TO THE MEANING OF THIS NOTICE.

UNITED STATES OF AMERICA
By its attorneys

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Christopher R. Donato
CHRISTOPHER R. DONATO
Assistant U.S. Attorney
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3303

Dated: October 17, 2006